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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,019	01/25/2002	Gerhard Kring	112740-515	3593
29177	7590	03/23/2005	EXAMINER	
BELL, BOYD & LLOYD, LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			POLLACK, MELVIN H	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/057,019

Applicant(s)

KRING, GERHARD

Examiner

Melvin H Pollack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/25/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: see attached office action.

## **DETAILED ACTION**

### ***Drawings***

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because of inking features within the boxes of Figure 2. Specifically, the background shadings of Figure 2 boxes are too dark to be legible in some cases, notably the top row of boxes. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sundaram et al. (6,564,341).

3. For claims 1, 6, and 7, Sundaram teaches a method and system (abstract) for synchronizing (col. 1, line 1 – col. 6, line 5) a network manager (Fig. 1, #12) to a network agent (Fig. 1, #6) in a communications network (Fig. 1, #2 and #14), in which managers maintain (col. 5, lines 1-30) data unit (Fig. 1, #16) copies of data units of their respective agents (Fig. 1, #10), the method comprising the steps of:

a. Storing a first value, which is unique for each data unit, in the agent (Fig. 4, #30);

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- b. Storing a second value, for indicating a number of changes to the associated data unit, in the agent (Fig. 4, #24);
  - c. Storing a third value in the agent (Fig. 4, #22);
  - d. Storing a copy of each of the first, second, and third values for each data copy in the manager (Fig. 5);
  - e. Comparing the copy of the first, second, and third values stored in the manager with the respectively associated first, second and third values stored in the agent (col. 15, lines 35-40); and
  - f. Synchronizing each data copy (col. 14, lines 5-15), whose copies of the first, second and third values stored in the manager do not match the associated first, second and third values stored in the agent (col. 15, line 15 – col. 16, line 10), to the associated data unit stored in the agent (col. 14, lines 15-30).
4. Sundaram does not expressly show the third field of data for indicating who initiated a respective last change. However these differences are only found in the non-functional data stored on the article of manufacture. Data related to the aforementioned three values is not functionally related to the substrate of the article of manufacture. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see Cf. In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
5. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to store any data in the fields of the article of manufacture as shown in Sundaram because such data does not functionally relate to the substrate of the article of

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manufacture and merely labeling the data differently from that in the prior art would have been obvious matter of design choice. *See In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

6. For claim 2, Sundaram teaches wherein the step of comparing is carried out during access to the data copy which is stored in the manager (col. 17, line 48 – col. 18, line 40).

7. For claim 3, Sundaram teaches that the step of comparing is carried out whenever access is made to one of the data unit copies which are stored in the manager (col. 10, lines 1-37; col. 12, line 30-col. 13, line 5).

8. For claim 4, Sundaram teaches that the step of comparing is carried out only once when access is, in each case, made for a first time to one of the data unit copies which are stored in the manager, after one of a failure of the manager and connection of the manager to the agent (col. 15, line 13 – col. 18, line 30).

9. For claim 5, Sundaram teaches that the step of comparing is carried out for all the data copies which are stored in the manager (col. 13, line 5 – col. 14, line 15).

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H Pollack whose telephone number is (571) 272-3887.

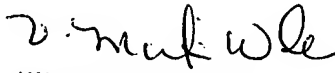
The examiner can normally be reached on 8:00-4:30 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (571) 272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MHP  
15 March 2005

  
VALENCIA MARTIN-WALLACE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700